

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Gregg S. Schmidtk, et al.	Examiner:	Sarah L. Purol
Serial No.:	10/677,709	Group Art Unit:	3637
Filed:	October 2, 2003	Docket No.:	200300049-1
Title:	Apparatus and Method for Mounting a Device to a Rack System		

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is filed in response to the Final Office Action mailed January 31, 2008; Notice of Appeal filed on April 29, 2008; and Notice of Non-Compliant Appeal Brief mailed September 17, 2008.

AUTHORIZATION TO DEBIT ACCOUNT

It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's deposit account no. 08-2025.

I. REAL PARTY IN INTEREST

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. RELATED APPEALS AND INTERFERENCES

There are no known related appeals, judicial proceedings, or interferences known to appellant, the appellant's legal representative, or assignee that will directly affect or be directly affected by or have a bearing on the Appeal Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1 – 13 are pending in the application and stand finally rejected. Claims 1-13 are original. Claims 14 – 20 were subject to a restriction and canceled. The rejection of claims 1 – 13 is appealed.

IV. STATUS OF AMENDMENTS

No amendments were made after receipt of the Final Office Action. All amendments have been entered.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The following provides a concise explanation of the subject matter defined in each of the claims involved in the appeal, referring to the specification by page and line number and to the drawings by reference characters, as required by 37 C.F.R.

§ 41.37(c)(1)(v). Each element of the claims is identified by a corresponding reference to the specification and drawings where applicable. Note that the citation to passages in the specification and drawings for each claim element does not imply that the limitations from the specification and drawings should be read into the corresponding claim element or that these are the sole sources in the specification supporting the claim features.

Claim 1

An apparatus (Fig. 1, #150) for mounting an electronic device (Fig. 1, #100) to a rack system (Fig. 1, #110), comprising:

a frame assembly (Fig. 1, #120: p. 4, lines 9-10: The rack system 110 comprises a frame assembly 120.);

at least two rails (Figs. 1, 2, and 5, #200/201) mounted on opposite sides of the frame assembly (Rail 200 is mounted to posts 121/122 and rail 201 is mounted to posts 123/124: p. 6, lines 23-26); and

a plurality of hangers (Figs. 3, 4a, 4b, 5, #300) provided on opposite sides of the device, said plurality of hangers retracting to fit the device into said frame assembly between said at least two rails, and said plurality of hangers engaging said at least two rails to support the device on said at least two rails in the frame assembly (Hangers are provided on opposite sides of the device: p. 7, lines 17-21. Hangers slide through channels 210 formed in the rail 200: p. 7, lines 22-25. Hangers maintain the device in the rack: p. 9, lines 19-20).

Claim 2

The apparatus of claim 1, further comprising a channel (Fig. 2, #210) formed in each of said at least two rails (A channel is formed in the side of the rail: p. 7, lines 7-9).

Claim 3

The apparatus of claim 2, wherein said plurality of hangers biasably release into the channels formed in said at least two rails (The hangars are retractable and bias by springs 400 into the channels of the rail: p. 8, lines 4-9).

Claim 4

The apparatus of claim 1, wherein the device is slidable on said plurality of hangers along at least a portion of said at least two rails (Hangars are provided so the device can slide in and out of the rack: p. 7, lines 24-27).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-13 are rejected under 35 USC § 102(b) as being anticipated by USPN 6,378,966 (Baker).

VII. ARGUMENT

The rejection of claims 1 – 13 is improper, and Appellants respectfully request reversal of these rejections.

The claims do not stand or fall together. Instead, Appellants present separate arguments for various claims. Each of these arguments is separately argued below and presented with separate headings and sub-heading as required by 37 C.F.R. § 41.37(c)(1)(vii).

Claim Rejections: 35 USC § 102(b)

Claims 1-13 are rejected under 35 USC § 102(b) as being anticipated by USPN 6,378,966 (Baker). Applicants respectfully traverse.

The claims recite elements that are not taught in Baker. Some examples are provided below for different claim groups provided with separate sub-headings.

Sub-Heading: Claim 1

Independent claim 1 recites two rails mounted on opposite sides of a frame assembly. Hangars on the device retract to fit between the two rails. The claim then recites that the hangars engage the two rails “to support the device on said at least two rails in the frame assembly.” These recitations are not taught in Baker.

The Office Action equates the claimed frame assembly with element 102 in Baker and the claimed rails and hangars with elements 108 and 112 in Baker. Given this arrangement, the hangars in Baker do not engage the rails to support the device on the rails.

Specifically, figure 3 in Baker shows two railing portions 106/108 that extend between four corners of the frame. The device 104 has front safety latches 112 and rear safety latches 114. Notice that the device 104 rests on top of the railing portions 106/108. As such, the front and rear safety latches 112/114 (argued to be the claimed hangars) do not engage the railing portions 106/108 to support the device on the railing portions. The safety latches 112/114 do not support the device. Instead, the device 104 is supported by the railing portions 106/108, not the safety latches 112/114. In fact, nowhere does Baker

teach that the safety latches “support” the device “on the two rails.” In fact, the safety latches 112/114 in Baker do not even engage the railing portions 106/108, but engage the rack elements 102. In any event, the safety latches 112/114 in Baker do not support the device. In Baker, the safety latches are provided to prevent the device from being slid in a particular direction (see Baker at column 2, line 63 to column 3, line 17).

In short, the Office Action argues that Baker teaches hangars (shown as element 112/114). The elements 112/114 in Baker, however, do not support the device. Also, these elements never support the device “on at least two rails in the frame assembly.”

Anticipation under section 102 can be found only if a single reference shows exactly what is claimed (see *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985)). For at least these reasons, the claims are not anticipated by Baker.

Response to Examiner Argument

In the final office action, the examiner argues as follows: “Refer to figure 5. Part of the rail assembly 108 includes portion 200 and the hangar assembly 112 engages this section” (see Final OA at p. 2). Applicants respectfully traverse.

As shown in Fig. 5 of Baker, portion 200 can contact safety latch 112 and prevent the device from being moved. Portion 200 and latch 112, however, do not support the device. Claim 1 clearly recites that the hangars engage the two rails “to support the device on said at least two rails in the frame assembly.”

Sub-Heading: Dependent Claim 2

In the office action mailed 08/16/2007 and in the final office action mailed 01/31/2008, the examiner has not addressed the elements of dependent claim 2. As such, the examiner has failed to establish a prima facie case for rejecting claim 2. Appellants have reviewed Baker and cannot find any teaching wherein a channel is formed in each of two rails as recited in claim 2.

Sub-Heading: Dependent Claim 3

Claim 3 recites hangers that biasably release into the channels formed in the two rails. The safety latches 112/114 in Baker are never biased into channels in rails. Instead, the safety latches in Baker are provided to prevent the device from being slid in a particular direction (see Baker at column 2, line 63 to column 3, line 17).

Sub-Heading: Dependent Claim 4

Claim 4 recites that the device is slidable on said plurality of hangers along at least a portion of said at least two rails (emphasis added). The device in Baker never slides on the safety latches 112/114.

CONCLUSION

In view of the above, Appellants respectfully request the Board of Appeals to reverse the Examiner's rejection of all pending claims.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. 832-236-5529. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

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VIII. Claims Appendix

1. (original) An apparatus for mounting an electronic device to a rack system, comprising:
 - a frame assembly;
 - at least two rails mounted on opposite sides of the frame assembly; and
 - a plurality of hangers provided on opposite sides of the device, said plurality of hangers retracting to fit the device into said frame assembly between said at least two rails, and said plurality of hangers engaging said at least two rails to support the device on said at least two rails in the frame assembly.
2. (original) The apparatus of claim 1, further comprising a channel formed in each of said at least two rails.
3. (original) The apparatus of claim 2, wherein said plurality of hangers biasably release into the channels formed in said at least two rails.
4. (original) The apparatus of claim 1, wherein the device is slidable on said plurality of hangers along at least a portion of said at least two rails.
5. (original) The apparatus of claim 1, wherein said frame assembly comprises a plurality of posts, the device supported in said frame assembly between said plurality of posts.
6. (original) The apparatus of claim 1, wherein said at least two rails are mounted

between adjacent posts of said frame assembly.

7. (original) The apparatus of claim 1, wherein two of said plurality of hangers are provided on opposite sides of the device.

8. (original) The apparatus of claim 1, wherein said plurality of hangers are cylindrical.

9. (original) The apparatus of claim 1, wherein said plurality of hangers are triangular-shaped.

10. (original) The apparatus of claim 1, wherein at least one of said plurality of hangers comprises a ramp portion.

11. (original) The apparatus of claim 10, wherein the ramp portion engages said frame assembly to automatically retract the at least one hanger.

12. (original) The apparatus of claim 1, wherein at least one of said plurality of hangers comprises a stop portion.

13. (original) The apparatus of claim 12, wherein the stop portion engages said frame assembly to prevent said device from sliding beyond a predetermined position in said frame assembly.

14. – 20. (canceled)

IX. EVIDENCE APPENDIX

None.

X. RELATED PROCEEDINGS APPENDIX

None.